

OGC Has Reviewed

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1 July 1952

For : Chief, Contact Division
Scientific Branch

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US Anti-Trust Laws and the Acquisition of Foreign
Technical Manufacturing Information by [REDACTED]

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1. During the course of a conversation [REDACTED] of this office had with [REDACTED] Director of the Licensing Department of [REDACTED] on 19 June and 25 June 1952, [REDACTED] discussed the difficulties he was experiencing in making contracts with foreign companies to receive from them technical information on the manufacture of communications and electronics devices.

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2. The substance of the views [REDACTED] expressed on this subject are set forth below.

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3. The US Anti-Trust Laws as presently interpreted by the US Department of Justice prevent the [REDACTED] from entering into the contracts with foreign companies necessary to keep [REDACTED] abreast of technical progress throughout the world in the techniques involved in the manufacture of communications and electronic devices. The US Anti-Trust Laws as interpreted limit [REDACTED] freedom of contract in obtaining foreign technical information by the following prohibitions:

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a) Before [REDACTED] can enter into a contract providing for the full exchange of technical information pertaining to methods of manufacturing of communications and electronic equipment with a foreign company, [REDACTED] must represent to its attorneys that such a contract with the foreign company is vital to the progress of [REDACTED] as a company. In many cases it is difficult for [REDACTED] to make such a representation because it is usually impossible to tell when a general technical exchange contract is signed what technical information a foreign company will be able to supply in the future during the life of the contract. Moreover, often [REDACTED] manufacturing personnel cannot represent to the [REDACTED] attorneys that a contract providing for full exchange of technical information with a foreign company is vital to [REDACTED] production progress but can merely represent that they believe it would be desirable for [REDACTED] to enter into such a contract. In such a case when a contract for the acquisition of technical information is deemed by [REDACTED] to be merely desirable, [REDACTED] attorneys advise against entering into such a contract because the possibility of violation of the Anti-Trust Laws outweighs the prospective value of the technical information to be obtained.

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An example of the result of the operation of this advice is that [redacted] has entered into contracts to sell technical information to two leading Japanese electronic firms but cannot contract to receive technical information from them in return because [redacted] cannot represent to its attorneys that it is vital that [redacted] should receive this Japanese technical information.

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b) [redacted] is prohibited from entering into a contract providing for the full exchange of technical information covering all phases of manufacturing communications and electronic equipment with more than one foreign company in a single country. This prohibition applies even though the foreign contracting companies would still be free to enter into similar contracts with US companies other than [redacted]

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c) [redacted] is prohibited from entering into a contract limited to providing for the exchange of technical information on the manufacture of a specified communications or electronic device with more than one company in a given foreign country.

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4. [redacted] and other similar US companies are, of course, subject to the same limitations of the US Anti-Trust Laws.

5. Small US companies manufacturing communications and electronic equipment are not interested in entering into contracts with foreign companies to obtain technical information or methods of manufacturing communications and electronic equipment because they cannot obtain such a contract on an exchange basis since the small US company has little or no technical information which would be of value to a foreign company. If small US companies wish to obtain technical information from a foreign country, they will be required to pay cash for the information. This the small US company is reluctant to do before knowing what technical information the foreign company can supply.

6. It is obvious that it is vital to US defense that US companies manufacturing communications and electronics equipment which are essential to the efficient functioning of the Army, Navy, and the Air Force should have as free access as possible to foreign technical information which would enable them to serve the Armed Forces more efficiently. It would seem that if some modification in the interpretation of the US Anti-Trust Laws were made allowing US companies more freedom in contracting for foreign technical information than they now possess, the national interest would be served.

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7. We pass the above-expressed opinions of [REDACTED] on to you with the hope that you may be able to place them in the proper channels so that they will be given consideration by the authorities in the US Government which have jurisdiction over such matters.

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